

REMARKS

In the Office Action mailed July 26, 2007, claims 1, 2 and 5-16 were rejected under nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,935,224; and claims 1, 2 and 5-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (KR 2002-0057012) in view of Hedenberg '009 (U.S. Patent No. 5,947,009). The foregoing rejections are respectfully requested.

None of the claims have been amended.

Claims 1, 2 and 5-16 are pending and under consideration.

Regarding the double patenting rejection:

As previously mentioned, the Applicants respectfully request that a submission of a terminal disclaimer be held in abeyance until the § 103 rejections of the claims have been overcome.

Regarding the 103 rejections:

As previously mentioned, Lee discusses a baking machine having upper and lower kneading drums, which prevents a sealing pack from being separated from the kneading drums by controlling the rotating position of the kneading drums (see page 18 of the English Translation of Lee). As shown in FIG. 6 of Lee, the opposite side edges of the sealing pack 7 do not include "upper opening parts and lower sealed parts" as recited in claim 1, for example.

This feature was previously pointed out to the Examiner. In response, the Examiner currently states that the Applicant makes no positive distinction between in the claims as to which end is the upper end and which end is the lower. It is respectfully submitted that the distinction is set forth by using the terms "upper" and "lower".

With respect to claim 8, this claim recites controlling a driver based on the rotation signal sensed by the rotation sensor, to thereby control a number of rotations of the upper kneading drum based upon a distance between the upper kneading drum. The Examiner relies upon the general principle that a programmable controller may be programmed to function as desired by the user. Even assuming the Examiner is correct, this does not mean it would have been obvious to implement the Applicants' particular method of programming, i.e., controlling the number of rotations. The Examiner states that KR '012 controls the location of the mixing bag, and therefore can be programmed as claimed. However, this is a hindsight reconstruction by

the Examiner, because the reference does not specifically state that the device is in fact programmed as claimed.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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